

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO: 5:10-CR-00064-BR

UNITED STATES OF AMERICA

v.

AHMAD DEHAVEN BURWELL

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ORDER

This matter is before the court on defendant's *pro se* motion to obtain all transcripts and documents in the case pursuant to 28 U.S.C. § 753(f).

Defendant "seek[s] these documents to be able to file a motion for direct appeal." (DE # 83.) Without a pending proceeding, e.g., a direct appeal or a habeas corpus petition, defendant cannot be provided any transcripts at government expense. See 28 U.S.C. § 753(f) ("Fees for transcripts furnished in criminal proceedings to persons proceeding under the Criminal Justice Act . . . or in habeas corpus proceedings to persons allowed to sue, defend, or appeal in forma pauperis, shall be paid by the United States . . ."); United States v. Horvath, 157 F.3d 131, 132 (2d Cir. 1998) ("Based on the plain language and necessary operation of the statute, we conclude that a motion for a free transcript pursuant to § 753(f) is not ripe until a [28 U.S.C.] § 2255 motion has been filed."). Furthermore, to obtain free copies of documents within his case file, defendant must make a showing of particularized need. See United States v. Rast, No. 6:02-cr-00948-GRA, 2007 WL 3377200, *1 (D.S.C. Nov. 7, 2007) ("It is well-settled in this circuit that a prisoner who requests free copies of records in his or her criminal case must show a particularized need for such records." (citation omitted)). Defendant does not need copies of all documents in the case to enable him to prepare a notice of appeal or a habeas corpus petition, as

those filings require relatively basic information of which he should have first hand knowledge.
See Fed. R. App. P. 3(c) (setting forth contents of notice appeal); Rule 2(b), Rules Governing
Section 2255 Proceedings (requirements of habeas corpus motion).

The motion is DENIED. The Clerk is DIRECTED to send defendant a copy of the
docket sheet from his case file.

This 3 April 2012.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is positioned above a horizontal line.

W. Earl Britt
Senior U.S. District Judge